

Agency for International Development

§ 213.23

to repay the amount owed prior to collection through salary offset, unless otherwise provided by the hearing official.

(l) *Liquidation from final check.* If the employee retires, resigns, or the period of employment ends before collection of the debt is completed, the remainder of the debt will be offset from subsequent payments of any nature due the employee (e.g., final salary payment, lump-sum leave, etc.).

(m) *Recovery from other payments due a separated employee.* If the debt cannot be liquidated by offset from any final payment due the employee on the date of separation, USAID will liquidate the debt, where appropriate, by administrative offset from later payments of any kind due the former employee (e.g., retirement pay). Such administrative offset will be taken in accordance with the procedures set forth in § 213.20.

(n) *Interest, penalty and administrative cost.* USAID will assess interest, penalties and administrative costs on debts collected under the procedures in this section. Interest, penalty and administrative costs will continue to accrue during the period that the debtor is seeking either formal or informal review of the debt or requesting a waiver. The following guidelines apply to the assessment of these costs on debts collected by salary offset:

(1) Interest will be assessed on all debts not collected by the payment due date specified in the bill for collection or demand letter. USAID will waive the collection of interest and administrative charges on the portion of the debt that is paid within 30 days after the date on which interest begins to accrue.

(2) Administrative costs will be assessed if the debt is referred to Treasury for cross-servicing.

(3) Deductions by administrative offset normally begin prior to the time for assessment of a penalty. Therefore, a penalty charge will not be assessed unless deductions occur more than 90 days from the due date in the bill for collection or demand letter.

(o) *Non-waiver of right by payment.* An employee's payment under protest of all or any portion of a debt does not waive any rights that the employee

may have under either the procedures in this section or any other provision of law.

(p) *Refunds.* USAID will promptly refund to the employee amounts paid or deducted pursuant to this section, the recovery of which is subsequently waived or otherwise found not owing to the United States. Refunds do not bear interest unless specifically authorized by law.

(q) *Time limit for commencing recovery by salary setoff.* USAID will not initiate salary offset to collect a debt more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the right to collect the debt were not known and could not have been known through the exercise of reasonable care by the Government official responsible for discovering and collecting such debts.

§ 213.23 Salary offset when USAID is not the creditor agency.

(a) USAID will use salary offset against one of its employees that is indebted to another agency if requested to do so by that agency. Such a request must be accompanied by a certification by the requesting agency that the person owes the debt (including the amount) and that the procedural requirements of 5 U.S.C. 5514 and 5 CFR part 550, subpart K, have been met. The creditor agency must also advise USAID of the number of installments to be collected, the amount of each installment, and the commencement date of the first installment, if a date other than the next established pay period.

(b) Requests for salary offset must be sent to the Chief Financial Officer, Office of Financial Management (M/FM), United States Agency for International Development, Ronald Reagan Building, 1300 Pennsylvania Avenue NW., Washington, DC 20523-4601.

(c) *Processing of the claim by USAID—*

(1) *Incomplete claims.* If USAID receives an improperly completed request, the requesting (creditor) agency will be requested to supply the required information before any salary offset can be taken.

(2) *Complete claims.* If the claim procedures in paragraph (a) of this section

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have been properly completed, deduction will begin on the next established pay period. USAID will not review the merits of the creditor agency's determinations with respect to the amount or validity of the debt as stated in the debt claim form. USAID will not assess a handling or any other related charge to cover the cost of its processing the claim.

(d) *Employees separating from USAID before a debt to another agency is collected*—(1) *Employees separating from Government service.* If an employee begins separation action before USAID collects the total debt due the creditor agency, the following actions will be taken:

(i) To the extent possible, the balance owed the creditor agency will be liquidated from subsequent payments of any nature due the employee from USAID in accordance with § 213.22;

(ii) If the total amount of the debt cannot be recovered, USAID will certify to the creditor agency and the employee the total amount of USAID's collection; and

(iii) If USAID is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, the Foreign Service Retirement Fund, or other similar payments, it will provide such information to the creditor agency so that it can file a certified claim against the payments.

(2) *Employees who transfer to another Federal agency.* If an USAID employee transfers to another Federal agency before USAID collects the total amount due the creditor agency, USAID will certify the total amount of the collection made on the debt. It is the responsibility of the creditor agency to ensure that the collection is resumed by the new employing agency.

Subpart D—Compromise of Debts

§ 213.24 General.

USAID may compromise claims for money or property where the principal balance of a claim, exclusive of interest, penalty and administrative costs, does not exceed \$100,000. Where the claim exceeds \$100,000, the authority to accept the compromise rests solely with DOJ. The CFO may reject an offer

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of compromise in any amount. Where the claim exceeds \$100,000 and USAID recommends acceptance of a compromise offer, it will refer the claim with its recommendation to DOJ for approval. The referral will be in the form of the Claims Collection Litigation Report (CCLR) and will outline the basis for USAID's recommendation. USAID refers compromise offers for claims in excess of \$100,000 to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530, unless otherwise provided by Department of Justice delegations or procedures

§ 213.25 Standards for compromise.

(a) USAID may compromise a claim pursuant to this section if USAID cannot collect the full amount because the debtor does not have the financial ability to pay the full amount of the debt within a reasonable time, or the debtor refuses to pay the claim in full and the Government does not have the ability to enforce collection in full within a reasonable time by enforced collection proceedings. In evaluating the acceptability of the offer, the CFO may consider, among other factors, the following:

- (1) Age and health of the debtor;
- (2) Present and potential income;
- (3) Inheritance prospects;
- (4) The possibility that assets have been concealed or improperly transferred by the debtor;
- (5) The availability of assets or income which may be realized by enforced collection proceedings; or
- (6) The applicable exemptions available to the debtor under State and Federal law in determining the Government's ability to enforce collection.

(b) USAID may compromise a claim, or recommend acceptance of a compromise to DOJ, where there is significant doubt concerning the Government's ability to prove its case in court for the full amount of the claim, either because of the legal issues involved or a bona fide dispute as to the facts. The amount accepted in compromise in such cases will fairly reflect the probability of prevailing on the legal issues involved, considering fully the availability of witnesses and other evidentiary data required to support